

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



# Tu 14c

**STAFF RECOMMENDATION****ON CONSISTENCY DETERMINATION**

Consistency Determination No.	<b>CD-10-00</b>
Staff:	MPD-SF
File Date:	1/25/2000
45th Day:	3/10/2000
60th Day:	3/25/2000
Commission Meeting:	3/14/2000

**FEDERAL AGENCY:**      **U.S. Fish and Wildlife Service**

**PROJECT**  
**LOCATION:**

Between Oceano, San Luis Obispo County, to the north, and Pt. Sal, Santa Barbara County to the south (Exhibits 1 & 2)

**PROJECT**  
**DESCRIPTION:**

Establishment of refuge boundary and Conceptual Management Plan for Guadalupe-Nipomo Dunes National Wildlife Refuge (Exhibit 1)

**SUBSTANTIVE FILE**  
**DOCUMENTS:**

See page 12.

**EXECUTIVE SUMMARY**

The U.S. Fish and Wildlife Service has submitted a consistency determination for the establishment of a boundary and a Conceptual Management Plan for the Guadalupe-Nipomo Dunes National Wildlife Refuge in southern San Luis Obispo and northern Santa Barbara County. The boundary, which would contain an 8,900 acre area, is the first step in the establishment of a National Wildlife Refuge. The primary purpose of the refuge in this portion of the coast is to conserve the central California coastal dune and associated wetland habitats and assist in the recovery of native plants and animals that are federally listed as threatened or endangered.

Establishment of the proposed refuge is consistent with the Coastal Act mandate to protect environmentally sensitive habitat areas, marine resources, wetlands, and other coastal waters. The proposal is consistent with the public access and recreation policies of the Coastal Act (Sections 30210-30214), because the Fish and Wildlife Service will manage the habitat areas in a manner balancing public access and recreation needs with the need to protect sensitive wildlife resources. Finally, the refuge would support other Coastal Act goals, including protecting agriculture, scenic public views, cultural resources, and water quality. Therefore, the proposal is consistent with Sections 30210-30214, 30230, 30231, 30240, 30241, 30242, 30244, and 30251 of the Coastal Act.

### **STAFF SUMMARY AND RECOMMENDATION**

**I. Project Description.** The U.S. Fish and Wildlife Service has submitted a consistency determination for the establishment of a boundary and a Conceptual Management Plan for the Guadalupe-Nipomo Dunes National Wildlife Refuge, an 8,900 acre area located in southern San Luis Obispo and northern Santa Barbara County (Exhibit 1). The boundary is the first step in the establishment of a national refuge. The approval of a Refuge boundary would allow the Fish and Wildlife Service to negotiate with landowners, within the boundary, who might wish to sell, lease, or donate their property in the future. Any lands acquired by the Fish and Wildlife Service would be managed as part of the National Wildlife Refuge System.

The purpose of the refuge in this portion of the coast is to conserve the central California coastal dune and associated wetland habitats and assist in the recovery of native plants and animals that are federally listed as threatened or endangered. In a 1980 inventory, the U.S. Fish and Wildlife Service described the Guadalupe-Nipomo Dunes ecosystem as “the most unique and fragile ecosystem in the State of California” and ranked it number one on a list of 49 habitats in need of protection. Also in 1980, the U.S. Secretary of the Interior designated the Guadalupe-Nipomo Dunes as a National Natural Landmark. It is the largest coastal dune area in California, and thus far, it is one of the last remaining relatively intact ecosystems of its type and size in the western United States. These dunes support an abundant diversity of plant and animal species, many of which can be found only in this area.

The 18-mile stretch of dunes is actually made up of three adjacent dune areas: the Callender Dunes, the Guadalupe Dunes, and the Mussel Rock Dunes. The Dunes Complex runs north and south between Pismo Beach and Point Sal and includes an area of more than 18,000 acres.

Within the Dunes Complex lies the Guadalupe-Nipomo Dunes Preserve (Dunes Preserve) which is currently managed by The Nature Conservancy (TNC) and various State, County, and local organizations. The Dunes Preserve consists of a group of properties that were set aside to protect the natural resources found within these units. The Preserve is made up of the following properties: (1) Mobil Coastal Preserve (MCP); (2) Rancho Guadalupe Dunes County Park; (3) Black Lake; and (4) Pismo Dunes Natural Preserve (Exhibit 2). The establishment of the Dunes Preserve began in the late 1980s through the efforts of the California State Coastal Conservancy.

The proposed dunes refuge lies within the Dunes Complex (Exhibit 1). Several alternative refuge boundaries were considered by the Fish and Wildlife Service (Exhibit 3); however the proposed alternative would provide the greatest level of dune and other habitat protection. In comparing the proposed alternative (Alternative C) to other alternatives, the Fish and Wildlife Service states:

*Under Alternative C (Preferred Alternative), a total of approximately 8,900 acres of contiguous land would be included within the proposed Refuge boundary ...[Exhibit 1]. The 2,553-acre Mobil Coastal Preserve would be included in this boundary ... [Exhibits 1 and 2]. Under the preferred alternative, the Refuge boundary would include the Guadalupe Oil Field, Mobil Coastal Preserve, Oso Flaco Lake Natural Area, Tosco Buffer Area, Black Lake, Dune Lakes, an agricultural easement, and Pismo Dunes Natural Preserve. These interconnected lands are currently owned and managed by State and local agencies, and private landowners. The Service would seek to protect any land that may become available for acquisition in the future and acknowledges that some of the lands identified within the proposed Refuge boundary may never become part of the National Wildlife Refuge System. As described in Alternative B, a strip of land approximately 1.25 miles long by 100 feet wide will also be included in the donation of the 2,553-acre Mobil Coastal Preserve MCP from TNC to the Service under Alternative C.*

*Alternative C would result in the protection, management, and restoration of wildlife habitats for threatened and endangered species and migratory birds within the MCP and potentially within the Oso Flaco Lake Natural Area, Tosco Buffer Area, Black Lake, Dune Lakes, Pismo Dunes Natural Preserve, Guadalupe Oil Field, and the agricultural easement, if these additional lands are ever acquired or managed by the Service through a cooperative agreement. All the parcels of land within the 8,900-acre area, except the Guadalupe Oil Field are under a protected status and are owned and managed by local, State, and private entities.*

*Under Alternative C, the proposed Refuge boundary contains approximately 4,720 acres of central coast dune scrub, 550 acres of coastal foredunes, 2,020 acres of active dunes and coastal strand, 360 acres of coastal dune swale, 149 acres of beachgrass, 150 acres of riparian woodland and scrub habitat, 320 acres of water bodies and wetland habitat, 66 acres of estuary habitat, 40 acres of developed and disturbed habitat, 115 acres of floodplain, and approximately 109 acres of nonnative forest and nonnative grasslands. According to the U.S. Department of Agriculture Natural Resources Conservation Service, there are approximately 600 acres of prime and statewide important farmlands within the proposed Refuge boundary. About 340 acres are actually used for farming and those lands lie within the Dune Lakes agricultural easement, Oso Flaco Lake Natural Area, and the 100-foot-wide strip of land adjacent to the MCP. Federally endangered, threatened, and candidate species that could potentially be protected and restored include the California least tern, western snowy plover, California red-legged frog, California tiger salamander, Gambel's watercress, marsh sandwort, surf thistle, La Graciosa thistle, and Nipomo Mesa lupine.*

Further discussion of the Fish and Wildlife Service's conservation approach can be found in its Conceptual Management Plan, which describes wildlife management within the Refuge, and which is further summarized on page 8 below and in Exhibit 6. Until a more formal management plan for the refuge can be adopted, the Fish and Wildlife Service states its interim goals as follows:

### **Interim Goals of the Proposed Guadalupe-Nipomo Dunes National Wildlife Refuge**

- **Endangered Species/Critical Habitat:** To protect, restore, and enhance native habitats to aid in the recovery of federally listed endangered and threatened species, and to help prevent the listing of additional species.
- **Biodiversity:** To protect, manage, and restore coastal dune habitats representative of the biodiversity in the central California coast area.
- **Cooperative Programs:** To create conservation partnerships and provide leadership in coordinating the land management activities of Federal, State, Tribal, and local governments and agencies, with academia and private conservation organizations.
- **Public Use:** To provide safe and high-quality opportunities for compatible wildlife-dependent educational and recreational activities to foster public appreciation of the natural heritage of the central California coast region.

Once an approved refuge boundary is established, habitat can be protected through various means, such as: (1) the purchase of fee title or conservation easements; (2) no-cost transfers; (3) donation; and (4) exchanges. It is the established policy of the Fish and Wildlife Service to acquire land or interests in land from willing sellers. The basic considerations in acquiring land are: (1) biological significance of the land; (2) existing and anticipated threats to wildlife resources; and (3) landowners' willingness to sell or otherwise make property available to the project. The purchase of refuge lands proceeds according to availability of funds.

The Fish and Wildlife Service has no authority to acquire land or negotiate agreements on behalf of the National Wildlife Refuge System (NWRS) except within an approved refuge acquisition boundary. Therefore, the proposed boundary provides opportunities for landowners and the Fish and Wildlife Service to work cooperatively. Once a boundary is approved, the Fish and Wildlife Service still has no authority to protect or manage wildlife or habitat on a given property as part of the NWRS unless and until a property owner willingly enters into an agreement with the Fish and Wildlife Service.

**II. Procedures.** As currently submitted the refuge boundary/conceptual management plan includes proposals at varying levels of specificity. This consistency determination evaluates all these in as much detail as is presently available. Future site-specific implementation planning on refuge lands within coastal zone boundaries or affecting the coastal zone will be accompanied as needed by consistency or negative determinations that provide additional detail for each proposal. (Note: Future implementation plans for the entire refuge are summarized in Exhibit 6.)

Such a procedure is encouraged by the Coastal Zone Management Act (CZMA), which provides for “phased federal consistency review” in cases where federal decisions to implement an activity are also made in phases. Section 930.37 (c) of the CZMA implementing regulations provides:

*... in cases where major Federal decisions related to a proposed development project will be made in phases based upon developing information, with each subsequent phase subject to Federal agency discretion to implement alternative decisions upon such information (e.g., planning, siting, and design decisions), a consistency determination will be required for each major decision. [15 C.F.R. Section 930.37(c)]*

Thus, the Fish and Wildlife Service’s consistency determination is for a document generally describing the overall boundary and management goals for the refuge. Because many of the activities identified in the management plan are still at the conceptual stage, additional Commission consistency review may be required after completion of final management plans, and/or area- or project-specific plans.

Historically, when the Commission has reviewed these types of conceptual or management plans, the Commission’s usual practice has been to review the plan at a general level, noting potential problem areas and projects or activities which would be likely to affect the coastal zone if implemented. The benefits of this type of phased review are that: (1) it provides the Fish and Wildlife Service, in advance of specific project or plan implementation, notice of what issues are likely to arise under the CCMP; and (2) it provides the Commission with an overall planning context within which to review specific plans or projects subsequently proposed. The Commission can also ease its administrative burden by identifying at the more general planning stage those projects or activities that do not affect the coastal zone, or where effects are sufficiently minor to allow authorization through the negative determination procedure.

At this time, the Commission is not aware of future acquisitions, proposals, or activities that would definitely trigger the need for further consistency determinations. Rather, in this instance, the Commission is requesting that the Fish and Wildlife Service continue to coordinate the implementation of its refuge establishment and management with the Commission, to enable further Commission review of specific plans and activities. To ease in the administrative burdens, the proposals/specific plans may be consolidated into a single (or groups of) consistency determination(s). Also, some of these proposals/specific plans may pose only minor issues may be reviewed administratively through the negative determination process. The Fish and Wildlife Service should continue to consult with the Commission staff on the most appropriate form for review.

**III. Status of Local Coastal Program** The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the LCP has been certified by the Commission and incorporated into the CCMP, it can provide guidance in applying Chapter 3 policies in light of local circumstances. If the LCP has not been incorporated into the CCMP, it cannot be used to guide the Commission's decision, but it can be used as

background information. The Santa Barbara County LCP has been certified by the Commission and has been incorporated into the CCMP. The San Luis Obispo County has been certified by the Commission but has not been incorporated into the CCMP.

**IV. Federal Agency's Consistency Determination.** The U.S. Fish and Wildlife Service has determined the project consistent to the maximum extent practicable with the California Coastal Management Program.

**V. Staff Recommendation.** The staff recommends that the Commission adopt the following motion:

**MOTION:**                    **I move that the Commission agree with consistency determination CD-10-00 that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).**

**STAFF RECOMMENDATION:**

*Staff recommends a **YES** vote on the motion. Passage of this motion will result in an agreement with the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.*

**RESOLUTION TO AGREE WITH CONSISTENCY DETERMINATION:**

*The Commission hereby **agrees** with the consistency determination by the U.S. Fish and Wildlife Service, on the grounds that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the CCMP.*

**VI. Findings and Declarations:**

The Commission finds and declares as follows:

**1. Environmentally Sensitive Habitat.** The Coastal Act provides:

*30240 (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

*30230: Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

*30231: The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

The goals of the National Wildlife Refuge System and the Coastal Act are synonymous; overall refuge system goals include:

- To preserve, restore, and enhance the natural ecosystems of all species of animals and plants that are endangered or threatened with becoming endangered.
- To perpetuate the migratory bird resource.
- To preserve a natural diversity and abundance of fauna and flora on refuge lands.

Specifically for the proposed refuge, the Fish and Wildlife Service's goal is "... to conserve the central California coastal dune and associated wetland habitats and assist in the recovery of native plants and animals that are federally listed as threatened or endangered." As noted earlier in this report, development along the central coast has reduced the coastal dune scrub community to less than 10 percent of its historic distribution. Establishment of the Refuge would help protect this rare and relatively intact ecosystem, since significant remaining stands of this habitat are located within the proposed Refuge.

The protection of wildlife habitats within the established Refuge would enhance the long-term conservation of endangered and threatened species and biological diversity. The refuge would protect a broad spectrum of native habitats and conserve important populations of endangered and threatened species and other native plants and animals. Approximately 8,900 acres of continuous land would be included within the Refuge boundary. Under the refuge, the Fish and Wildlife Service would seek to protect and restore dune, riparian, and wetland habitat for the benefit of native vegetation and six federally listed plant and animal species, which include the California red-legged frog, California least tern, western snowy plover, brown pelican, marsh sandwort, and Gambel's watercress. An invasive exotic plant species removal program would be devised and

implemented accordingly in areas dominated by exotic species, and native plants would be replanted. This would allow for the recovery of native threatened and endangered and other sensitive species of plants.

Conservation and management efforts by the Fish and Wildlife Service would occur within the Mobil Coastal Preserve (MCP) in addition to any neighboring lands that may become available through purchase or donation. The Fish and Wildlife Service may also enter into cooperative agreements with the landowners if they would ever seek wildlife habitat conservation or management assistance from the Fish and Wildlife Service.

In terms of wildlife management, the Fish and Wildlife Service states:

*The key focus areas of the Refuge would be wildlife monitoring and management, public access and use, active restoration and enhancement of habitat, interpretation of the dune ecosystem, and multi-agency and private conservation group coordination. In general, the interim management focus will allow for natural processes that benefit the conservation of wildlife to continue, to the extent that quality of human life, native species, and neighboring private property are not jeopardized. So, while allowing natural processes to continue, Refuge management will also focus on active manipulation of habitat to restore native communities and eradicate introduced exotic species.*

*This section of the CMP [Conceptual Management Plan] could apply to all lands and resources within the approved Refuge boundary if they ever were included in the National Wildlife Refuge System. Management methods discussed here do not influence existing management regimes on lands that the Service does not manage and is not intended to suggest that current strategies should be changed or modified to emulate the Service's management focus.*

Habitat type-by-habitat type management considerations are elaborated on in greater detail in Exhibit 6.

Based on the above discussion, the Commission finds the establishment of the refuge boundaries is an important first step in the protection, and restoration where feasible, of extremely important and environmentally sensitive wildlife habitat, including rare, threatened and endangered species, fragile coastal dune complexes, wetlands, and marine resources. The Commission will be afforded the opportunity for further consistency review for specific implementation proposals. The Commission concludes that the proposed refuge boundaries and Conceptual Management Plan is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

**2. Public Access and Recreation.** Sections 30210-30212 of the Coastal Act provide for the maximization of public access and recreation opportunities, acknowledging that such access needs to be managed in a manner taking into account natural resource protection needs. Section 30212.5 provides that where appropriate and feasible, public facilities, including parking areas or facilities,



“shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.” Section 30213 provides for the protection of lower cost visitor and recreational facilities. Section 30214 provides that:

*(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

*(1) Topographic and geologic site characteristics.*

*(2) The capacity of the site to sustain use and at what level of intensity.*

*(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*

*(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

...

*(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

Among the fundamental goals of the National Wildlife Refuge System are “to provide refuge visitors with high-quality, safe, wholesome, and enjoyable recreational experiences oriented toward wildlife, to the extent these activities are compatible with the purposes for which the refuge was established.” According to the Fish and Wildlife Service, wildlife-dependent public use will be encouraged on the Refuge, as long as those uses are compatible with the primary purposes of the Refuge. The Conceptual Management Plan (CMP) describes in more detail the wildlife-dependent recreational uses which currently occur and the interim uses that are anticipated to continue to occur upon establishing the proposed Refuge. The Interim Compatibility Determination forms can be found in Appendix 1 of the CMP (Exhibit 6). Certain public uses, such as wildlife observation, wildlife photography, environmental education, and environmental interpretation, that currently occur on the Mobil Coastal Preserve (MCP) and within some of the lands in the 8,900-acre area, would remain generally the same. However, certain areas on the MCP and on any future lands acquired by the Fish and Wildlife Service will be seasonally closed for nesting snowy plovers and terns.

The establishment of the proposed Refuge has the potential to increase public opportunities in proportion to the size of the Refuge, depending upon the availability and acquisition of lands within the Refuge boundary. There would also be an increase in public visitors to the Refuge, the Dunes Center, and the local city of Guadalupe. Furthermore, there could be an increase in revenue to local businesses through ecotourism. This could potentially benefit and bring more recognition to the area. The establishment of the Refuge, however, will not change the landowners rights on adjacent properties or lands within the approved Refuge boundary.

In terms of recreation management, the Fish and Wildlife Service's management philosophy for national wildlife refuges is different than those for other Federal land management systems that are managed under a multiple-use mandate. The Fish and Wildlife Service describes this philosophy and these differences as follows:

*All public entry and use of Refuge lands is at the discretion of the Refuge Manager. Wildlife-dependent public use is generally encouraged on national wildlife refuges as long as those uses are compatible with the primary purpose(s) of the Refuge and those uses are consistent with other management programs and uses.*

*For the purposes of this document, only uses for the MCP will be evaluated at this time. Public use on and access to the other lands within the approved Refuge boundary will be evaluated in the acquisition process or when agreements are being formulated with landowners.*

*Units of the National Wildlife Refuge System are managed as primary-use areas; that is, primarily for the benefit of fish, wildlife, and their habitats. In addition, refuges are closed to other uses unless specifically and formally opened. This contrasts with units of other Federal land management systems that are managed under a multiple-use mandate (e.g., national forests administered by the U.S. Forest Service and public lands administered by the U.S. Bureau of Land Management). Hunting, fishing, wildlife observation and photography, and environmental education and interpretation are priority public uses of the Refuge System. These uses must receive enhanced consideration over other uses in refuge planning and management.*

On an interim basis, The Fish and Wildlife Service will manage the refuge lands in a similar fashion to existing wildlife management presently occurring on refuge lands. For example, the Mobil Coastal Preserve (MCP) is presently owned by the Nature Conservancy, which:

*... has allowed the public to visit the area on foot for nonconsumptive enjoyment, encouraged outdoor education, and facilitated the establishment of a docent-led tour program. ... TNC has prohibited horses, domestic dogs (except seeing eye dogs), bicycles, overnight camping, and hunting on the MCP.*

This interim management will take place until a Comprehensive Conservation Plan (CCP) is drafted, at which time these uses can be reviewed by the affected public and concerned citizens. The interim uses are discussed in greater detail in the Fish and Wildlife Service's "Interim Compatibility Determination," which is summarized in Exhibit 6. The Fish and Wildlife Service will also enter into a Memorandum of Understanding with the State Coastal Conservancy to further manage recreational uses on MCP refuge lands.

In conclusion, the Commission agrees with the Fish and Wildlife Service that the proposed refuge and Conceptual Management Plan would protect and support coastal public access and recreation, in a manner balancing conflicts between competing recreational uses and protecting environmentally sensitive habitat and other coastal resources. In this way, the Fish and Wildlife Service will implement the management measures proscribed in Section 30214 of the Coastal Act. Finally, the Fish and Wildlife Service will continue to coordinate the implementation of these management measures to enable the Commission to further review specific proposals. The Commission concludes that the proposed plan is consistent with the public access and recreation policies (Sections 30210-30214) of the Coastal Act.

**3. Agriculture.** Sections 30241 and 30242 of the Coastal Act provide for the protection of agricultural land. Section 30241 provides for the maintenance of the maximum amount of prime agricultural land in agricultural production, and for the minimization of conflicts between agricultural and urban land uses. Section 30242 provides that all other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion must be compatible with continued agricultural use on surrounding lands.

Under the proposed refuge alternative, a total of approximately 600 acres of prime and statewide important farmlands lie within the proposed Refuge boundary. However, only approximately 340 acres are currently being farmed; those lands lie within the agricultural easement owned by Dune Lakes Limited, Oso Flaco Lake Natural Area boundary, and the 100-foot-wide strip of land next to the MCP. Certain areas of agricultural land could potentially be affected if any landowners ever wish to divest ownership or management responsibilities of their land to the Fish and Wildlife Service. In that circumstance the land use could change from agriculture to wildlife and habitat preservation. However, the 100-foot-wide strip of land included in the donation from TNC (Exhibit 1), which contains approximately 2.6 acres of farmland, would not be affected because the Fish and Wildlife Service would issue a special use permit to the neighboring landowner for continued agricultural use of that land.

The Commission has previously authorized conversion of agricultural land to wildlife habitat, including in its review of the establishment of the Humboldt Bay National Wildlife Refuge (CD-33-92, CD-40-91, and CD-7-88). Where consistency with the Coastal Act's agricultural protection policies was in question, the Commission has relied on the provision of the "conflict resolution" section of the Coastal Act. Section 30007.5 of the Coastal Act allows resolution of conflicts between Coastal Act policies in a manner which, on balance, "is the most protective of significant coastal resources." Section 30007.5 provides:

*The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies. [Emphasis added]*

In the Humboldt Bay NWR case, the Commission resolved the conflict between habitat protection and maintenance of agriculture to be resolved in favor of wildlife protection and allowing the conversion of agriculture to wetland habitat. A similar potentially conflict exists for the proposed refuge in that the Fish and Wildlife Service contemplates eventual conversion of agricultural lands to wildlife habitat. The Fish and Wildlife Service is not currently proposing any such conversion; thus, the Commission finds that current proposal is consistent with the agricultural protection policies (Section 30241 and 30242) of the Coastal Act. Future conversions, if they are proposed, can be found consistent with the Coastal Act by virtue of the conflict resolution section (Section 30007.5). The Commission therefore concludes the proposed refuge establishment and Conceptual Management Plan are consistent with the overall intent and specific policies of the Coastal Act.

## **VII. SUBSTANTIVE FILE DOCUMENTS:**

1. Proposed Guadalupe-Nipomo Dunes National Wildlife Refuge, Environmental Assessment, Land Protection Plan, and Conceptual Management Plan, U.S. Fish and Wildlife Service, January 2000.

2. Consistency Determination CD-150-96, U.S. Fish and Wildlife Service, Vernal Pools Stewardship Project.

3. Consistency Determination CD-33-92, CD-40-91, and CD-7-88, U.S. Fish and Wildlife Service, Humboldt Bay National Wildlife Refuge.